

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL ACTION NO. 1:10-CV-155-MR-DCK**

**FRANK E. KLOPFER and wife, KATHY M.)
KLOPFER; DUSTIN P. SWARTZ and wife,)
KRISTIN H. SWARTZ)**

Plaintiff,)

v.)

ORDER

**QUEENS GAP MOUNTAIN, LLC,)
DEVINSHIRE LAND DEVELOPMENT, LLC,)
RYAN P. McCARTHY, DEVIN P. McCARTHY)
KEITH A. VINSON, QUEENS GAP)
ACQUISITION, LLC, COVE CREEK, LLC,)
QUEENS GAP HOLDING COMPANY, LLC,)
and D.F. McCARTHY XVIII, LLC,)**

Defendants.)

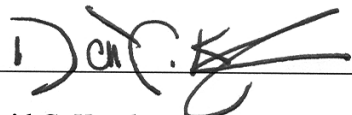
THIS MATTER IS BEFORE THE COURT *sua sponte* to clarify the record. On August 24, 2010, the Court issued an Order (Document No. 11) denying without prejudice the Defendant's Motion for Extension of Time to Answer (Document No. 10). The Court took this action because at the time of the ruling the docket sheet for the case reflected that the motion had not been signed, it did not contain a certificate of service, and it did not reflect consultation with opposing counsel. The Court denied the motion without prejudice to bring it again in proper form and consistent with the Local Rules.

Unbeknownst to the Court, on August 23, 2010, the original document was replaced with one that addressed all these issues. The Court was not aware of this fact because the NEF generated as a result of the replacement did not issue until August 24, 2010. In any event, the Court now

concludes that the motion as replaced is consented to and now in order, and the Court will grant the relief requested.

IT IS, THEREFORE, ORDERED that Defendants shall have up to and including October 11, 2010 to respond to Plaintiff's Complaint.

Signed: August 24, 2010



David C. Keesler
United States Magistrate Judge

